



**STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE ENROLLED BILL ANALYSIS**

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| Date: | Enrolled | Bill No: | <u>Assembly Bill 654</u> |
| Tax Program: | Property | Author: | Hueso |
| Sponsor: | Author | Code Sections: | GC 50281 |
| Related Bills: | | Effective Date: | 01/01/12 |

BILL SUMMARY

This bill, in part, deletes references to Board of Equalization (BOE) and county assessor inspections of historical property under a Mills Act contract for purposes of monitoring contract compliance.

ANALYSIS

CURRENT LAW

An owner of qualified historical property may enter into a preservation contract with a local government that participates in the Mills Act Program [Article 12 (commencing with Section 50280) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code] to restrict the use of the property in exchange for a lower assessed value for property tax purposes.

The Mills Act Program is administered and implemented by participating local governments (cities and counties). Mills Act contracts are between the property owner and the local government authorizing property tax relief. Each local government establishes their own criteria and contract conditions. Typically, the contract requires the property owner to restore the property if necessary, maintain its historic character, and use it in a manner compatible with its historic characteristics. When valuing property under a Mills Act contract, the assessor is required to use the special valuation treatment prescribed in Revenue and Taxation Code Sections 439 through 439.4.

Government Code Section 50281(b)(2) requires contracts entered into between a local government and a property owner to allow for, among other things, the periodic examination of the interior and exterior of the premises by the assessor, the State Department of Parks and Recreation, and the BOE as may be necessary to determine the owner's compliance with the contract. In practice, none of these particular agencies inspect properties for this purpose.

PROPOSED LAW

Property Inspections. This bill would, in part, amend Government Code Section 50281(b)(2) to delete reference to inspections by the assessor, Department of Parks and Recreation (specifically the Office of Historic Preservation), and BOE. Instead, the inspections would be performed by the city, county, or city and county that is a party to the contract.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

IN GENERAL

Section 8 of Article XIII of the California Constitution provides that: “[t]o promote the preservation of property of historical significance, the Legislature may define such property and shall provide that when it is enforceably restricted, in a manner specified by the Legislature, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses.”

The special valuation treatment for enforceably restricted historical property is outlined in Revenue and Taxation Code Sections 439 through 439.4. These statutes, in particular Section 439.2, prohibit a valuation of enforceably restricted historical property based on sales data and instead require the property be valued by a prescribed income capitalization method. The method prescribed in Section 439.2 contains specific instructions with regard to the income to be capitalized, the capitalization rate, and the capitalization technique to be used. However, the restricted value must be compared to the property's current market value and factored base year value, with the lowest of these three values enrolled as the property's taxable value. This comparison ensures the property is assessed at the lowest assessed value allowable under the law.

COMMENTS

1. **Sponsor and Purpose.** According to the author, "this bill is needed to ensure that a property tax break is not given without the property owner's compliance." This bill requires inspections of Mills Act properties and clarifies who will inspect the contracted properties for the purpose of determining the owner's compliance with the contract.
2. **Issue.** Enforcement and administration of Mills Act contracts has varied between local agencies. This bill requires the local agency entering into the contract to inspect the properties prior to a new agreement and every five years thereafter, and requires the local agency to take steps to enforce the contracts by either cancelling a contract or bringing an action in court to enforce a contract in the event of a breach of contract conditions.
3. **Eliminates Confusion.** The three agencies expressly authorized to conduct inspections for contract compliance do not participate in the contract negotiations, are not a signatory to the contract, and have no authority over the administration of the Mills Act program. The assessor's role is limited to assessing the property pursuant to the procedures outlined in the Revenue & Taxation Code. Thus, deleting the agencies currently named in the Government Code and instead referencing inspections by the city, county, or city and county, eliminates confusion over responsibilities under the Mills Act Program.

COST ESTIMATE

The costs to the BOE associated with this bill are absorbable.

REVENUE ESTIMATE

This measure has no direct property tax revenue impact.

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